



Atty. Dkt. No. 029318-0973

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: H. William Bosch et al.
Title: NOVEL NIMESULIDE COMPOSITIONS
Appl. No.: 10/697,703
Filing Date: 10/31/2003
Examiner: Tristan J. MAHYERA
Art Unit: 1615
Confirmation Number: 8369

DECLARATION UNDER 37 CFR 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, H. William Bosch, hereby declare and state that:

1. I am a citizen of the United States, residing at 237 Rodney Circle, Bryn Mawr, PA 19010.
2. At the time of events detailed in paragraph 4, *infra*, I was an employee of Elan Drug Delivery, Inc., with offices at 3500 Horizon Drive, King of Prussia, PA 19406.
3. I am a co-inventor of the invention disclosed and claimed in the above-referenced application.

4. Prior to June 27, 2003, I instructed my associates, as part of my supervisory role, to prepare nimesulide compositions comprising particles of nimesulide or a salt thereof having an effective average particle size of less than 2000 nm and at least one surface stabilizer adsorbed on the surface of the particles. My work relating to preparing the nimesulide compositions, which occurred prior to June 27, 2003, is documented in the attached exhibits.

5. As shown in Exhibit A (Notebook No. 5822, pages 006-008), the formulation comprising 5% nimesulide and 1% Plasdone® S-630 provides a stable nanoparticulate nimesulide composition.

6. As shown in Exhibit B (Notebook No. 5822, pages 009-011), the formulation comprising 5% nimesulide and 1% Plasdone® S-630 provides a stable nanoparticulate nimesulide composition.

7. As shown in Exhibit C (Notebook No. 5822, pages 012-014), the formulation comprising 5% nimesulide, 1% Plasdone® S-630 and 0.2% DOSS provides a stable nanoparticulate nimesulide composition.

8. As shown in Exhibit D (Notebook No. 5822, pages 015-017), the formulation comprising 5% nimesulide, 1% Plasdone® S-630 and 0.05% sodium lauryl sulfate (SLS) provides a stable nanoparticulate nimesulide composition.

9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent resulting therefrom.

June 27, 2008
Date

H. William Bosch
H. William Bosch

Title Nimesulide (5% API ; 1% S-630)(cont. from pg. 005)**Batch Record for Dispersion Technology Milling Procedures****I. General Information**

Name	Christian Wertz
Date	
Formula	5% - Nimesulide, 1% S-630
Continued on Page	007

II. Quantities Dispensed

	Quantity	Type	Source	Lot Number
Media	80.6	Polymill 200	Dow / PMRS	
Drug Substance	4.25	Nimesulide	Sigma	
Stabilizer	0.85	S-630		
Water	77.9	PI		
Other				

III. Process Parameters

Milling Method	Dynamill (150 cc batch chamber) F915 @ Rm. 205
Mill Speed	4,200 rpm
Temperature	~10°C

IV. Notes

Milling Time:	9:53 - Start milling ; 10:39 - first sample
	10:53 - second sample ; 11:41 - third sample
	1:10 - Harvest
Quantity retained post-milling:	forgot to filter out media before weighing

* Did not filter out media initially and discarded ~ 1/2 suspension.
Later filtration left ~20 mL of media free suspension.

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Signature

Christian F. Wertz(cont. on pg. 007)

Date

Reviewed and understood by

Klaus Pohl

Date

Title Nimesulide (5% API ; 1% S-630)(cont. from pg. 006)**Batch Record for Dispersion Technology Milling Procedures**

Name	Christian Wertz
Date	
Formula	5% Nimesulide 1% S-630
Continued from page	006

IV. Particle Size Data

Particle Size Analyzer Used	HORIBA LA-910 (S# 8514870103D)
Standards Measured	Lot # 22579 ; mean = 200 ; Duke Sci ; 200 nm Std

Elapsed Time	Mean, nm	D50, nm	D90, nm	Comments
46	173	156	285	No Sonication
	169	148	280	60 sec. Sonication
60	150	124	256	No Sonication
	144	121	243	60 sec. Sonication
108	3161	140	14961	No Sonication
	131	111	218	60 sec. Sonication
197	10794	318	33156	No Sonication
	140	112	246	60 sec. Sonication
3 day	195	142	337	No Sonication
	143	115	249	60 sec. Sonication

- * Particles begin to aggregate after between 60-108 minutes
- * Caused by reduction in particle size (Increase in Surface area) which could not be compensated for with 1% S-630
- * Can increase S-630 concentration or add additional Stabilizer
- * Particle size data in folder #2

(cont. on pg. 008)**CONFIDENTIAL**

Signature

Christian F. Wertz

Date

Reviewed and understood by

Mike [Signature]

Date

Title Nimesulide (5% API, 2% J-630)

(cont. from pg. _____)

- mix J-630 slowly into DI H₂O w/ mild stirring until dissolved
- add polymill 200 w/ gentle manual stirring
- add API w/ gentle stirring until thoroughly mixed

Batch Record for Dispersion Technology Milling Procedures**I. General Information**

Name	Christian Wertz
Date	
Formula	5% Nimesulide, 2% J-630
Continued on Page	010

II. Quantities Dispensed

	Quantity	Type	Source	Lot Number
Media	80.6	Polymill 200	DOW	MM001012
Drug Substance	4.25	Nimesulide	Sigma	117H1019
Stabilizer	1.70	J-630	ISP Tech.	ML900012974
Water	79.05	DI		
Other				

III. Process Parameters

Milling Method	Dynomill (150 cc batch chamber) F915 @ Rm. 205
Mill Speed	4200 rpm
Temperature	~10 °C

IV. Notes

Milling Time:	8:15 Start batch ; 9:15 1 st Sample.
	10:15 2 nd Sample ; 11:15 Harvest
Quantity retained post-milling:	49.6 g (58%)

CONFIDENTIAL(cont. on pg. 010)

Signature

Christian F. Wertz

Date

Reviewed and understood by

H. William Bosch

Date

Title Nimesulide 5% API, 1% S-630, 0.2% DOSS

(cont. from pg. _____)

Batch Record for Dispersion Technology Milling Procedures**I. General Information**

Name	Christian F. Wertz
Date	
Formula	5% API, 1% S-630, 0.2% DOSS
Continued on Page	013

II. Quantities Dispensed

	Quantity	Type	Source	Lot Number
Media	80.6	polymill 200	DOW	MM001012
Drug Substance	4.25	Nimesulide	Sigma	117H1019
Stabilizer	0.85	S-630	ISP Tech.	ML900012974
Water	79.73	PI		
Other	0.17	DOSS	Cytec	SD0041815

III. Process Parameters

Milling Method	Dynomill (150 cc batch chamber) F915 @ room 205
Mill Speed	4200 rpm
Temperature	10 C

IV. Notes

Milling Time: 8:20 Start batch ; 9:20 1st sample
10:20 Harvest
Quantity retained post-milling: 26.12g (30.7 %)

- Solution was significantly less viscous w/ DOSS than previous runs
- Dissolved S-630, then dissolved DOSS w/ gentle stirring (~15 min)
- Slight leak when mill was started - some solution lost

CONFIDENTIAL(cont. on pg. 013)

Signature

Christian F. Wertz

Date

Reviewed and understood by

William Bosch

Date

(cont. from pg. 012)

Batch Record for Dispersion Technology Milling Procedures

Name	Christian F. <u>Wertz</u>
Date	
Formula	5% API, 1% S-630, 0.2% DOSS
Continued from page	<u>012</u>

IV. Particle Size Data

Particle Size Analyzer Used	HORIBA LA-910 (s#: 8514870103D)
Standards Measured	Lot #: 22569; mean = 205 ; Duke Sci.; 200 nm standard

[illegible]

• Data in ~~folder~~^{gfw} #2 Supplementary folder CFW-5822 A

(cont. on pg. 014)

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Signature

Chas. F. Smith

Date _____

Reviewed and understood by

H. William Bach

Date _____

Title Nimesulide 5% API, 1% S-630, 0.2% DOSS(cont. from pg. 013)**Particle Size Stability for Dispersion Technology Formulations****I. General Information**

Name	Christian F. Wertz
Date	
Formulation	5% API, 1% S-630, 0.2% DOSS
Notebook reference	
Continued on page	

II. Particle Size Data

Particle Size Analyzer Used	HORIBA LA-910 (s#: 8514870103D)
Standards Measured	Lot #: 22569; mean = 203 ; Duke Sci.; 200 nm standard

Elapsed Time	Storage Conditions	Mean, nm	D50, nm	D90, nm	Comments
1 day	5°C	136	116	223	no sonication
	5°C	137	116	224	60 s sonication
2 day	5°C	143	121	238	no sonication
	5°C	144	122	241	60 s sonication
5 day	5°C	149	133	239	no sonication
	5°C	151	135	242	60 s sonication
7 day	5°C	160	143	259	no sonication
	5°C	163	146	261	60 s sonication
21 day	5°C	162	150	252	no sonication
	5°C	166	155	255	60 s sonication
35 day	5°C	180	172	276	no sonication
	5°C	187	180	280	60 s sonication

afw
Data in folder ~~5822~~ supplementary folder CFN-5822 A

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(cont. on pg. _____)

Signature

Christian F. Wertz

Date

Reviewed and understood by

R. W. W. W. W. W.

Date

Title Nimesulide 5% API, 1% S-630, 0.05% SLS

(cont. from pg. _____)

- Dissolved S-630 in H₂O followed by SLS under gentle mixing
- SLS dissolved very rapidly w/ very little foam

Batch Record for Dispersion Technology Milling Procedures**I. General Information**

Name	Christian F. Wertz
Date	
Formula	5% API, 1% S-630, 0.05% SLS
Continued on Page	

4. Quantities Dispensed

	Quantity	Type	Source	Lot Number
Media	80.6	Polymill 200	DOW	MM001012
Drug Substance	4.25	Nimesulide	Sigma	117H1019
Stabilizer	0.85	S-630	ISP Technology	ML900012974
Water	79.86	H ₂ O	DI	
Other	0.04	SLS		

III. Process Parameters

Milling Method	Dynomill (150 cc batch chamber) F915 @ room 205
Mill Speed	4200 rpm
Temperature	10 C

IV. Notes

Milling Time: 8:22 Start batch ; 9:22 1 st sample
10:22 Harvest
Quantity retained post-milling: 69.4 g (80.7 wt %)

- mill began leaking after first sample was taken from mill

(cont. on pg. 016)**CONFIDENTIAL**

Signature

Christian F. Wertz

Date

Reviewed and understood by

W. William Bosch

Date

